IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3964 OF 2005

Mahesh Harishchandra Bhagwat ..Petitioner.

Versus

The State of Maharashtra & Ors. ..Respondents.

Mr.Hitesh P. Vyas for the Petitioner.

Mr. A.H. Palekar, AGP for the State.

CORAM : S. A. BOBDE, J .

DATED : 01ST JULY, 2005.

P.C.:

1. Rule. Rule made returnable forthwith. Mr. Palekar, AGP waives notice for Respondent -State. Heard by consent.

2. The petitioner has challenged cancellation of the licence issued to him for sale of kerosene. The show cause notice issued to the petitioner, alleging a breach of condition of licence issued under the

Maharashtra Schedule Commodities under wholesale commodities vendor licence Order 1979. However, the revisional authority has uphold the order passed by the Dy. Commissioner (Supply) Pune, apparently on the basis that the offence has been registered against the petitioner under the Essential Commodities Act, but from the documents it is clear that the plaintiff has misappropriated the kerosene on his license. Vide para 4 of the impugned order, therefore, there is some doubt, whether the cancellation of the petitioner's licence has been upheld on the basis of the criminal prosecution, which may not be permissible, or on the basis of breach of licence's condition. The order of the revisional authority does not specifically referred to a particular breach of particular licence's condition. The impugned order is, therefore, set aside and the matter is remanded back to the revisional authority for fresh decision in accordance with law. The authority shall of course is entitled to pass its order on breach of conditions, if so found.

3. The said authority to decide the matter within a period of eight weeks from the date the parties appeared before it. Parties are directed to appear

before the authority on 18th July, 2005.

4. The petition is disposed of in the above terms.

01.07.2005 (S.A.BOBDE,J.)

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